

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBERT WARGAS,

Plaintiff,

08-CV-03422 (PAC)

-against-

ANSWER

LONG ISLAND RAILROAD COMPANY,

Defendant.

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S I R S :

Defendant, The Long Island Rail Road Company ("LIRR"), by its attorney, MARK D. HOFFER, answering the Complaint of plaintiff, alleges upon information and belief:

1. Admits each and every allegation contained in paragraph "FIRST" of the Complaint.
2. Denies each and every allegation contained in paragraph "SECOND" of the complaint, except admits that the defendant is a public benefit corporation is engaged in interstate commerce by rail and operate a railroad system and railroad yards within the jurisdiction of this Court and in various other States.
3. Denies each and every allegation contained in paragraph "THIRD" of the complaint, except admits that prior to September 22, 2005 and at all times hereinafter mentioned, the defendant employed the plaintiff as a locomotive engineer in furtherance of defendant's business in interstate commerce.
4. Denies each and every allegation contained in paragraphs "FOURTH" and "SIXTH" of the Complaint and refers questions of law to the Court for determination.
5. Denies each and every allegation contained in paragraph "FIFTH" and "SEVENTH" of the Complaint.

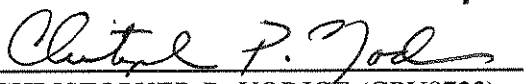
**DEFENDANT, FURTHER ANSWERING AND FOR A FIRST,
SEPARATE AND COMPLETE DEFENSE TO ALL CAUSES OF ACTION,
IF ANY, ALLEGED IN THE COMPLAINT HEREIN, ALLEGES:**

6. Upon information and belief, that if the plaintiff was injured as is alleged in the complaint, he was so injured in whole or in part by reason of his own negligence and without any fault or any negligence on the part of the defendant, its agents, servants and/or employees, and the defendant did not violate any statute or statutes enacted for the safety of its employees.

WHEREFORE, defendant, THE LONG ISLAND RAIL ROAD COMPANY, demands judgment dismissing the complaint herein together with costs and disbursements of this action.

Dated: Jamaica, New York
May 5, 2008

MARK D. HOFFER, ESQ.
Attorney for Defendant

BY: 
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(File No. JN-6389 / LO5037761)

TO: **MICHAEL FLYNN, ESQ.**
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